

2017 Regular Session

SENATE BILL NO. 237

BY SENATOR CORTEZ

BONDS. Provides relative to revenue bonds of the Lafayette Public School Board. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:338.86(B), relative to the issuance of bonds by the Lafayette
3 Public School Board; to provide for the maximum term; to provide for the
4 application of the provisions of Chapters 13 and 13-A of Title 39 of the Louisiana
5 Revised Statutes of 1950 to the bonds; to provide relative to the form, provisions,
6 and negotiability of the bonds; to provide for an effective date; and to provide for
7 related matters.

8 Notice of intention to introduce this Act has been published.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:338.86(B) is hereby amended and reenacted to read as follows:

11 §338.86. Lafayette Parish School Board; use of sales and use tax proceeds; issuance
12 of bonds

13 * * *

14 B.(1) Subject to the approval at an election as hereinbefore required, the
15 Lafayette Parish School Board may fund the tax revenues into ~~negotiable~~ bonds in
16 the manner herein provided. In order to obtain funds for the purpose of paying all or
17 any part of the cost of any capital improvement on which the tax revenues may be

1 expended, the board may issue bonds payable solely from an irrevocable pledge and
2 dedication of the avails or proceeds of the tax, subject only to the prior payment of
3 the costs and expenses of administration and collection of the tax; provided,
4 however, said bonds shall ~~never~~ **not** be issued if the principal and interest maturities
5 on all such bonds then outstanding and those proposed to be issued will require in
6 any year in excess of fifty ~~per cent~~ **percent** of the avails or proceeds of the tax
7 estimated by the board to be collected in the calendar year during which the bonds
8 are to be issued.

9 (2) The Lafayette Parish School Board shall, by resolution, fix the form,
10 **maturities**, and terms of the bonds and the rate or rates of interest, **with a term not**
11 **to exceed forty years**, ~~payable annually or semi-annually, within the maximum rate~~
12 ~~prescribed herein. The bonds shall be issued in the name of the parish School Board~~
13 ~~of the Parish of Lafayette, state of Louisiana, and shall be payable in such medium~~
14 ~~and at such place or places within or without the state as may be fixed by such~~
15 ~~resolution. The bonds shall be serial coupon bonds, shall be payable in annual~~
16 ~~installments with maturities beginning not more than three years after the date of the~~
17 ~~bonds, and shall run for a period not to exceed twenty-five years from the date~~
18 ~~thereof. No bonds issued hereunder shall bear interest at a rate exceeding six per~~
19 ~~centum per annum, or be sold for less than par. All bonds shall be signed by the~~
20 ~~President and the Secretary of the board, under its official seal, and the coupons shall~~
21 ~~be signed by the facsimile signatures of such officials. The delivery of any bonds or~~
22 ~~coupons so executed at any time thereafter shall be valid, although, before the date~~
23 ~~of delivery, any person or persons signing the bonds or coupons shall cease to hold~~
24 ~~office. The maturities of the bonds shall be so arranged that the total amount of~~
25 ~~principal and interest falling due in any year, together with principal and interest~~
26 ~~falling due in such year on all bonds theretofore issued hereunder and then~~
27 ~~outstanding, shall never exceed fifty per centum~~ **percent** of the amount of sales tax
28 revenues estimated by the parish school board to be received by it in the calendar
29 year during which the bonds are issued.

1 (3) Bonds issued hereunder shall constitute a borrowing solely upon the
2 credit of the sales and use tax revenues received or to be received by the board, and
3 shall not constitute an indebtedness or pledge of the general credit of the parish or
4 the board within the meaning of any constitutional or statutory provision relating to
5 the incurring of indebtedness, and the bonds shall contain a recital to that effect.
6 ~~Such bonds shall be in coupon form, but may be made registrable as to principal only~~
7 ~~if so provided in the resolution authorizing the issuance thereof. They may be made~~
8 ~~redeemable in advance of maturity at the option of the board at such premium or~~
9 ~~premiums not greater than five per centum of the principal amount of the bonds as~~
10 ~~the board may determine.~~

11 (4) Bonds issued hereunder shall be payable solely from and secured by an
12 irrevocable pledge and dedication of such part of the sales tax revenues as may be
13 pledged thereto in the authorizing resolution. Any holder of any of such bonds, ~~or~~
14 ~~coupons attached thereto,~~ may ~~either at law or in equity,~~ by suit, action, mandamus
15 or other proceedings, enforce and compel performance of all duties required to be
16 performed by the board as a result of issuing the bonds, and may similarly enforce
17 the provisions of the ordinance imposing the tax and the resolution and proceedings
18 authorizing the issuance of such bonds.

19 (5) The board may in any resolution authorizing such bonds provide for the
20 respective priorities of its separate blocks, series or issues of bonds issued hereunder,
21 and may provide for the issuance of additional bonds in the future on a parity
22 therewith pursuant to such procedure or restrictions as may be specified in such
23 resolution. In the absence of such provision, if more than one series of bonds shall
24 be issued hereunder payable from the same sales tax revenues, priority of lien on
25 such revenues shall depend on the time of the delivery of such bonds, each series
26 enjoying a lien prior and superior to that enjoyed by any series of bonds subsequently
27 delivered, except that as to any issue or series of bonds which may be authorized as
28 a unit but delivered from time to time in blocks, the board may in the proceedings
29 authorizing the issuance of such bonds provide that all of the bonds of such series or

1 issue shall be co-equal as to lien regardless of the time of delivery; provided that
2 nothing herein stated shall vest in any holder of bonds any right of lien or priority of
3 any kind against any part of the sales and use tax revenues not pledged to the
4 payment of the bonds by the proceedings authorizing the issuance thereof.

5 (6) When any bonds shall have been issued hereunder neither the legislature,
6 the board, nor any other authority may discontinue or decrease the tax or permit to
7 be discontinued or decreased the tax in anticipation of the collection of which such
8 bonds have been issued, or in any way make any change in the allocation and
9 dedication of the proceeds of such tax which would diminish the amount of the sales
10 and use tax revenues to be received by the board, until all of such bonds shall have
11 been retired as to principal and interest, and there is hereby vested in the holders
12 from time to time of such bonds ~~and the coupons representing interest thereon~~; a
13 contract right in the provisions of this Section.

14 (7) Any resolution may contain such covenants with the future holder or
15 holders of the bonds as to the sales and use tax revenues, the disposition of such
16 revenues, the issuance of future bonds, and such other pertinent matters as may be
17 deemed necessary by the parish school board to assure the marketability of such
18 bonds, provided such covenants are not inconsistent with the provisions of this
19 Section.

20 (8) Any resolution authorizing the issuance of bonds hereunder may contain
21 such provisions to assure the enforcement, collection and proper application of the
22 sales and use tax revenues as the board may think proper, where not inconsistent
23 with the provisions of this Section, and when any bonds payable from the tax
24 revenues shall have been issued, this Section, the ordinance of the board imposing
25 the tax and pursuant to which the tax is being collected, and the obligation of the
26 board to continue to levy, collect and allocate the tax, and to apply the revenues
27 derived therefrom in accordance with the provisions of said ordinance, shall be
28 irrevocable until such bonds have been paid in full as to principal and interest, and
29 shall not be subject to amendment in any manner which would impair the rights of

1 the holders from time to time of such bonds or which would in any way jeopardize
2 the prompt payment of principal thereof or interest thereon.

3 ~~(9) All bonds issued hereunder shall be advertised for sale on sealed bids,~~
4 ~~which advertisement shall be published at least once a week for three weeks, the first~~
5 ~~publication to be made at least twenty-one days preceding the date fixed for the~~
6 ~~reception of bids. Advertisement shall be in the official journal of the board and also~~
7 ~~in a financial paper published in the city of New York, the city of Chicago, or the~~
8 ~~city of New Orleans, or in a newspaper of general circulation published in a city of~~
9 ~~this state having a population of not less than 50,000 inhabitants, according to the~~
10 ~~last Federal census. The board may reject any and all bids. If the bonds are not sold~~
11 ~~pursuant to the advertisement they may be sold by the board at private sale, within~~
12 ~~sixty days after the date advertised for the reception of sealed bids, but no private~~
13 ~~sale shall be made at a price less than the highest bid which shall have been received.~~
14 ~~If not so sold, the bonds shall be re-advertised in the manner herein prescribed.~~

15 ~~(10)~~ The proceeds derived from the sale of bonds issued hereunder shall be
16 used exclusively by the board for the purpose or purposes for which the bonds are
17 authorized to be issued but the purchasers of the bonds shall not be obligated to see
18 to the application thereof.

19 ~~(11)~~ **(10)** Before bonds are issued hereunder, the parish school board shall
20 investigate and determine the regularity of the proceedings. The resolution
21 authorizing the bonds may direct that they contain the following recital:

22 "It is certified that this bond is authorized by and is issued in conformity with
23 the requirements of the constitution and statutes of this state."

24 Such recital shall be deemed to be an authorized declaration of the board and
25 to import that there is constitutional and statutory authority for issuing the bonds and
26 imposing the tax; that all the proceedings therefor are regular; that all acts,
27 conditions and things required to exist, happen and be performed precedent to and
28 in the issuance of the bonds and imposition of the tax have existed, have happened
29 and have been performed in due time, form and manner as required by law; that the

1 amount of the bonds, together with all other indebtedness of the board does not
2 exceed any limit or limits prescribed by the constitution or statutes of this state; and
3 that the required notices have been duly and regularly given by publication in the
4 manner required by law. If any bonds are issued containing the above recital, the
5 same shall be construed according to the import herein declared, and it shall be
6 conclusively presumed that the recital is true, and neither the board nor any taxpayer
7 shall be permitted to question the validity or regularity of the bonds, obligations or
8 tax in any court or in any action or proceeding.

9 ~~(12)~~ **(11)** After the time within which the validity of the bonds may be
10 contested has elapsed, that is, thirty days from the date of publication of the
11 resolution authorizing the bonds and pledging and dedicating the sales tax revenues,
12 the bonds shall be registered with the Secretary of State without charge and shall
13 have endorsed thereon the words:

14 "Incontestable. Secured by a pledge and dedication of a sales and use tax in
15 the Parish of Lafayette, Louisiana. Registered this _____ day of _____, 20 ____.

16 _____
17 SECRETARY OF STATE"

18 All bonds issued under the provisions of this Section and the interest thereon shall
19 be exempt from taxation. Said bonds may be used for deposit with any officer, board,
20 municipality or other political subdivision of the State of Louisiana in any case
21 where deposit of security is required.

22 ~~(13)~~ **(12)** ~~The provisions of this Section shall be construed as cumulative~~
23 ~~authority for the exercise of the powers herein granted. The powers conferred by this~~
24 ~~Section shall not be affected or limited by any other provision of any statute of the~~
25 ~~state, and no provision, publication, election or right of referendum shall be required~~
26 ~~or afforded in the performance of any act herein authorized to be done, including the~~
27 ~~imposition, collection and application of the tax and issuance of bonds payable~~
28 ~~therefrom, except as herein otherwise specifically provided.~~ **Notwithstanding any**
29 **provision contained herein or other law to the contrary, any bonds issued**

1 pursuant to this Section shall also be subject to the provisions of Chapters 13
2 and 13-A of Title 39 of the Louisiana Revised Statutes of 1950.

3 ~~(14) (13)~~ Bonds issued hereunder shall have all the qualities of negotiable
4 paper and shall constitute negotiable instruments under the Negotiable Instruments
5 Law of the state of Louisiana. They shall not be invalid for any irregularity or defect
6 in the proceedings for the issuance and sale thereof and shall be incontestable in the
7 hands of bona fide purchasers or holders for value.

8 ~~(15) (14)~~ The resolution authorizing the issuance of the bonds hereunder and
9 pledging and dedicating sales and use tax revenues to the payment thereof shall be
10 recorded in the mortgage records of the parish of Lafayette and shall be published
11 in one issue of the official journal of the board. For a period of thirty days from the
12 date of the publication of said resolution, any person in interest may contest the
13 legality of the bonds provided for or the tax, the proceeds of which are so pledged
14 and dedicated, for any cause after which time no one shall have any cause or right
15 of action to contest the legality, formality or regularity of the proceedings, the tax,
16 or bond authorization, for any cause whatsoever. If the question of the validity of any
17 proceedings, tax or bond authorization provided for under the provisions of this
18 Section is not raised within the thirty days, the authority to issue the bonds, the
19 regularity thereof, the validity of the tax or portion thereof pledged and dedicated to
20 provide for the payment of principal and interest, and the enforceability of the pledge
21 thereof, shall be conclusively presumed, and no court may inquire into such matters.
22 If any resolution is adopted or proceedings had more than thirty days after the
23 publication of the resolution authorizing the issuance of bonds hereunder and
24 pledging and dedicating any of the sales tax revenues, such supplemental resolution
25 or proceedings shall be similarly published, and no contest, action or proceeding to
26 question the validity or legality of such supplemental resolution or proceedings shall
27 be begun in any court by any person for any cause whatsoever after the expiration
28 of thirty days from the date on which such supplemental resolution or proceeding is
29 published.

1 Section 2. This Act shall become effective upon signature by the governor
2 or, if not signed by the governor, upon expiration of the time for bills to become law
3 without signature by the governor, as provided by Article III, Section 18 of the
4 Constitution of Louisiana. If vetoed by the governor and subsequently approved by
5 the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Martha S. Hess.

DIGEST

SB 237 Draft

2017 Regular Session

Cortez

Present law authorizes the Lafayette Parish School Board (school board) to issue bonds secured by a one percent sales and use tax levied by the school board only after the question of the imposition of the tax has been submitted to the qualified electors of the parish and approved by the voters. Proposed law retains present law.

Present law provides that the school board shall, by resolution, fix the form and term of the bonds, not to exceed twenty-five years, and the rate of interest. Present law further provides that the bonds shall be serial coupon bonds, the interest rate shall not exceed six percent per annum, and be signed by the president and secretary of the board. Proposed law provides that the school board shall, by resolution, fix the form, maturities, and terms of the bonds and the rate of interest, with a term not to exceed forty years. Proposed law deletes provisions regarding serial coupon bonds, the limit on the interest rate on the bonds, and the signatories on the bonds.

Present law makes reference to coupons attached to the bonds and provides that a redemption in advance of maturity shall have a premium not greater than 5% of the principal amount of the bonds. Proposed law deletes the provisions regarding coupon bonds and the premium for a redemption in advance of maturity.

Present law provides for the manner of sale of the bonds and the time and place of the advertisement of the sale. Proposed law repeals present law.

Present law provides that the powers conferred by present law are not affected by any other provision of law and that the provisions and requirements for the issuance of debt in other provisions of law do not apply to bonds issued under present law. Proposed law deletes present law and provides that notwithstanding any provisions of law contained in present law or any other provision of law to the contrary, bonds issued pursuant to present law are also subject to the provisions of Chapters 13 and 13-A of Title 39 of the Louisiana Revised Statutes. Chapters 13 and 13-A provide relative to securities of public entities and fully registered securities, including maximum interest rates, advertising for bids, the form of the securities, the price at which the securities may be sold, the issuance, execution, and transfer of fully registered securities, and continuing disclosure by the issuers of securities.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:338.86(B))